



King County

Permitting Division

Department of Local Services

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FINAL CODE INTERPRETATION
CINT20-0001 Revised (Adult Family Home)

Background

On February 13, 2020, Christian Vannoy, on behalf of Mr. Mark Nordlie, filed a code interpretation request with the Permitting Division of the Department of Local Services (“the Department”). The request asks for interpretations of King County Code¹ (K.C.C.) definition sections 21A.06.345 (dwelling unit), 21A.06.365 (single-family dwelling unit) and 21A.06.450 (family) in relation to Mr. Nordlie’s intention to seek permitting of a 16-person “assisted living group home for elderly disabled persons” operating out of a single-family home in the Agricultural zone.²

As outlined in the supporting information submitted with the code interpretation request, Mr. Nordlie owns a single-family home on Parcel 2621059073. The parcel is zoned A-10 (Agricultural, one dwelling unit per 10 acres) and is 7.5 acres in size. Mr. Nordlie desires to operate an “assisted living group home for elderly disabled persons.” The residents are intended to be unrelated individuals and are described as having “disabilities that make it difficult for them to continue to live independently” and “impairments that inhibit their ability to handle major life activities by themselves.”

The facility, therefore, will offer onsite, day-to-day medical supervision and services. Although the full extent of supportive services required to care for 16 disabled seniors is not articulated, the proposal does indicate that “[e]lderly disabled people need supportive environments for a variety of reasons, which may include problems with memory, ambulation, dressing, bathing, toileting, cooking and other household tasks.”

Mr. Nordlie intends to remodel the existing home to accommodate this proposed use. Before applying for a building permit, he requested this code interpretation to determine whether the proposed use will be considered a “single-family dwelling unit” and, therefore, a permitted residential use in the Agricultural Zone.

¹ https://www.kingcounty.gov/council/legislation/kc_code.aspx

² Mr. Nordlie’s request also included discussion of the Fair Housing Act and questioned whether a reasonable accommodation under federal law would be appropriate. K.C.C. 2.100.020 defines a “code interpretation” as a formal statement regarding the meaning or requirements of a particular provision in King County’s development regulations. Interpretation of federal law is outside the scope of the Department’s Code Interpretation authority under to K.C.C. Chapter 2.100 and is therefore not addressed in this interpretation determination.

The Department issued a Code Interpretation on April 14, 2020 concluding that the proposal did not meet the definition of family under the King County Code. Mr. Nordlie timely filed a Land Use Petition Act appeal to review the Department's decision. Based on the Department's interest in clarifying the scope of its Interpretation and additional relevant information provided in the Petition,³ the Department has chosen to withdraw its April 14, 2020 Interpretation and publish this revised and final Code Interpretation.

Code Sections Subject to Interpretation

K.C.C. 21A.06.345

"Dwelling unit: one or more rooms designed for occupancy by a person or family for living and sleeping purposes, containing kitchen facilities and rooms with internal accessibility, for use solely by the dwelling's occupants; dwelling units include but are not limited to bachelor, efficiency and studio apartments, factory-built housing and mobile homes."

K.C.C. 21A.06.365

"Dwelling unit, single detached: a detached building containing one dwelling unit."

K.C.C. 21A.06.450

"Family: an individual; two or more persons related by blood, marriage or state registered domestic partnership under chapter 26.60 RCW; a group of two or more disabled residents protected under the Federal Housing Act Amendments, who are not related by blood, marriage or state registered domestic partnership under chapter 26.60 RCW, living together as a single housekeeping unit; a group of eight or fewer residents, who are not related by blood, marriage or state registered domestic partnership under chapter 26.60 RCW, living together as a single housekeeping unit; or a group living arrangement where eight or fewer residents receive supportive services such as counseling, foster care, or medical supervision at the dwelling unit by resident or non-resident staff. For purposes of this definition, minors living with parent shall not be counted as part of the maximum number of residents."

Discussion & Analysis

In the Agricultural Zone, the only permitted residential use is for "single detached dwelling units."⁴ Therefore, in order to open an "adult assisted living group home for elderly disabled persons," the use must meet the definitions of dwelling unit and, by reference, family.

³ Specifically, the Petitioner clarified that the proposed facility would house 16 individuals. This information was not available in the original code interpretation request.

⁴ K.C.C. 21A.08.030

A. The proposal does not meet the use criteria in the “dwelling unit” definition.

Under K.C.C. 21A.06.345, a dwelling unit is “designed for occupancy by a person or family for living and sleeping purposes.” The facility envisioned by Mr. Nordlie is a business that enables a group home atmosphere but also requires much more intensive use than simply living and sleeping by the client occupants. Although the proposal lacks detail on what type of services would be provided, it is understood that the housing of 16 elderly disabled persons would require significant ongoing care by outside service providers. The scope of this contemplated use exceeds the dwelling unit definition.

B. The proposal does not meet the criteria for “family” designation.

As defined in K.C.C. 21A.06.450, a family living in a single-family home can consist of the following types of family units:

1. an individual;
2. two or more persons related by blood, marriage or state registered domestic partnership under chapter 26.60 RCW;
3. a group of two or more disabled residents protected under the Federal Housing Act Amendments, who are not related by blood, marriage or state registered domestic partnership under chapter 26.60 RCW, living together as a single housekeeping unit;
4. a group of eight or fewer residents, who are not related by blood, marriage or state registered domestic partnership under chapter 26.60 RCW, living together as a single housekeeping unit; or
5. a group living arrangement where eight or fewer residents receive supportive services such as counseling, foster care, or medical supervision at the dwelling unit by resident or non-resident staff.

The request indicates that the proposed “assisted living group home for elderly disabled persons” should fall under the type of family unit outlined in #3 above, related to two or more disabled residents living together in a single housekeeping unit. This type of family unit does not limit the number of disabled individuals that may reside in a single-family home if they are living as a “single housekeeping unit.”

The proposal for a facility to accommodate 16 unrelated individuals being cared for and receiving supportive services does not constitute a “single housekeeping unit” as envisioned by #3 above. Although the King County Code does not define single housekeeping unit, the term is certainly not without meaning. “Limiting use to single-housekeeping units, like limitations on the number of occupants, protects the community's interest in minimizing overcrowding, avoiding the excessive use of municipal services, traffic control, and other aspects of an attractive physical environment.” *Moore v. City of E. Cleveland, Ohio*, 431 U.S. 494, 516, 97 S. Ct. 1932, 1944, 52 L. Ed. 2d 531 (1977)

citing Village of Belle Terre v. Boraas, 416 U.S. 1, 9, 94 S.Ct. 1536, 1541, 39 L.Ed.2d 797 (1974).

Several jurisdictions have defined single housekeeping unit and these definitions reflect various characteristics that weigh in favor of excluding the type of facility envisioned by Mr. Nordlie. In Newport Beach, CA, a single housekeeping unit is defined as:

“an interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses, and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager.” *Pac. Shores Properties, LLC v. City of Newport Beach*, 746 F.3d 936, 937 (9th Cir. 2014) (Newport Beach, Cal., Ordinance No.2008–05, § 1)

Local government definitions of single housekeeping unit consistently indicate some control by the residents over the other people that occupy the premises, as well as joint responsibility for typical family activities and expenses. Some definitions have additional criteria, such as requiring that residents have “established ties and familiarity with each other” and are permanent, as opposed to transient, members of the group. Another common element is creating a “rebuttable presumption” that a certain number of residents, or homes that operate as a business, do not constitute single housekeeping units. See *Yellowstone Women's First Step House, Inc. v. City of Costa Mesa*, 2019 WL 6998664 (C.D. Cal. July 16, 2019).

The scenario proposed by Mr. Nordlie reflects the operation of a business where choice of residents is controlled by the property owner and all financial and household obligations ultimately fall to the property owner. The residents would not typically share a lease, jointly pay utilities, apportion chores or undertake household maintenance, as these responsibilities would all be covered by fees charged by the property owner and/or caretaker. The residents would not typically have established ties and familiarity with each other prior to moving into the adult group home and would be transient in so far as they would choose to move in or move out independently of the other residents.

Increasing the scale or intensity of a residential use for 16 or more occupants also supports a decision that the proposed use exceeds the scope of a single housekeeping unit. From a public health, safety and welfare perspective, the intensity of the proposed use would trigger a multitude of new concerns and requirements, including meeting different standards for fire protection, accessibility, and energy standards. Notably, because the property is in the Agricultural zone, establishing adequate access to water and meeting wastewater treatment requirements would also be required. Moreover, although the full extent of supportive services necessary for 16 elderly disabled

individuals is unclear from the proposal, some supportive services are contemplated and would further intensify the use of the property. Services by non-residents beyond the single housekeeping unit reflect additional public health and safety demands for the residents, as well as the service providers.


Distinguishing between levels of care and intensity of use when receiving in-home support services aligns with applicable long-term care facility standards under state law. Revised Code of Washington (RCW) 70.128.010 states that adult family homes are a residential facility in which personal or special care, room, and board are provided to up to eight adults who are not related by blood or marriage to the person or persons providing those services.⁵ A facility exceeding eight adults would be categorized as an "assisted living facility" per RCW 18.20.020(2) which "means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents...." While overlaps exist in the type of care and services provided, the different living arrangements entail different state licensing and operational requirements. King County's zoning code is consistent with and effectuates state statutes governing housing for individuals requiring supportive services.

Decision

The proposed use of a single-family residence for a 16-person assisted living group home for elderly disabled persons does not meet the definitions of dwelling unit or family under the King County Code. The proposed use would not be allowed in a single-family dwelling unit in the Agricultural Zone.

Finality of Code Interpretations

Under K.C.C. 2.100.050.A, the director's decision on a code interpretation is final. A code interpretation issued by the director governs all staff review and decisions unless withdrawn or modified by the director or modified or reversed on appeal by the King County Hearing Examiner, King County Council or an adjudicatory body (K.C.C. 2.100.040.H).



Jim Chan
Director, Permitting Division
Department of Local Services

May 28, 2020
Date

⁵ ESHB 1023, amending RCW 70.128.030, goes into effect June 11, 2020 and allows up to eight residents in certain situations. The prior limitation was six individuals, which remains the upper limit on bed capacity for adult family homes unless specific criteria are met by the applicant.